

Notice of Allowability

Application No.

09/747,514

Examiner

Terra C. Gibbs

Applicant(s)

PHIBBS ET AL.

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants Amendment and Remarks mailed 5/5/04 and the Examiner's Amendment mailed 7/15/04.

2. ☒ The allowed claim(s) is/are 1-3,5-9 and 16.

3. ☐ The drawings filed on _____ are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____

7. ☒ Examiner's Amendment/Comment

8. ☐ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Shawna Lemon on or around July 16, 2004.

In the claims:

The application has been amended as follows:

In claim 1, the word "repressor" was replaced with the word "repression" in line 4.

In claim 1, the phrase --and detecting the presence or absence of inhibition of the expression of the Crc protein in said bacteria-- was inserted after the word "fluoroacetamide" in line 8.

In claim 1, the phrase --and the inhibition of the expression of said Crc protein-- was inserted after the word "fluoroacetamide" in line 9.

In claim 1, the phrase "(Crc)" was replaced with the word "Crc" in line 6.

In claim 6, the phrase "(Crc)" was replaced with the word "Crc" in line 1.

In claim 16, the phrase --expression of a-- was inserted after the phrase "of the" in line 5.

In claim 16, the phrase --expression of the-- was inserted after the phrase "of the" in line 6.

In claim 16, the word "indicating" was replaced with the word "indicates" in line 6.

Reasons for Allowance

Claim 16 is free of the prior art. Claim 1, as amended above, and dependent claims 2, 3, and 5-9 are free of the prior art. The closest prior art of record is that of Smyth et al. (Journal of General Microbiology, 1975 Vol. 90:91-99). Smyth et al. disclose providing a culture medium containing *Pseudomonas aeruginosa* bacteria and an amidase operon repressor, succinic acid or pyruvate; containing fluoracetamide; and administering a test compound, in this case butyramide, acetamide, lactamide, or acetate; and determining growth rates and amidase specific activity of said bacteria (see Tables 1 to 3). Smyth et al. further disclose, seven fluoroacetamide-resistant mutants with low amidase activity gave rise to secondary mutants strains on succinate + butyramide plates (see Abstract). Smyth et al. do not disclose a further step of detecting the presence or absence of inhibition of the expression of the Crc protein in *Pseudomonas* bacteria.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terra C. Gibbs whose telephone number is (571) 272-0758. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on (571) 272-0760. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tcg
July 16, 2004


KAREN A. LACOURCIERE, Ph.D.
PRIMARY EXAMINER